

SENATE BILL No. 359

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5-7.

Synopsis: CEDIT for library property tax replacement. Provides that a county may adopt an ordinance designating county economic development income tax (CEDIT) revenue for replacement of public library property taxes in the county. Allows a county to adopt an ordinance only if all territory in the county is included in a library district. Provides that the maximum amount that may be used for library property tax replacement purposes is the amount of revenue generated by a CEDIT rate of 0.15%. Provides that a public library may receive public library property tax replacement credits under this provision only if the library has entered into reciprocal borrowing agreements with all other public libraries in the county.

Effective: Upon passage.

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January 11, 2005, read first time and referred to Committee on Tax and Fiscal Policy.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 359

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-3.5-7-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as
3 provided in subsection (c), the county economic development income
4 tax may be imposed on the adjusted gross income of county taxpayers.
5 The entity that may impose the tax is:
6 (1) the county income tax council (as defined in IC 6-3.5-6-1) if
7 the county option income tax is in effect on January 1 of the year
8 the county economic development income tax is imposed;
9 (2) the county council if the county adjusted gross income tax is
10 in effect on January 1 of the year the county economic
11 development tax is imposed; or
12 (3) the county income tax council or the county council,
13 whichever acts first, for a county not covered by subdivision (1)
14 or (2).
15 To impose the county economic development income tax, a county
16 income tax council shall use the procedures set forth in IC 6-3.5-6
17 concerning the imposition of the county option income tax.

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(b) Except as provided in subsections (c), (g), (k), (p), and (r) the county economic development income tax may be imposed at a rate of:

- (1) one-tenth percent (0.1%);
- (2) fifteen-hundredths percent (0.15%);**
- ~~(2) (3)~~ two-tenths percent (0.2%);
- ~~(3) (4)~~ twenty-five hundredths percent (0.25%);
- ~~(4) (5)~~ three-tenths percent (0.3%);
- ~~(5) (6)~~ thirty-five hundredths percent (0.35%);
- ~~(6) (7)~~ four-tenths percent (0.4%);
- ~~(7) (8)~~ forty-five hundredths percent (0.45%); or
- ~~(8) (9)~~ five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), or (p), the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g) or (p), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

- (1) county economic development income tax may be imposed at a rate of:
- (A) fifteen-hundredths percent (0.15%);

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1 (B) two-tenths percent (0.2%); or
 2 (C) twenty-five hundredths percent (0.25%); and
 3 (2) county economic development income tax rate plus the county
 4 option income tax rate that are in effect on January 1 of a year
 5 may equal up to one and twenty-five hundredths percent (1.25%);
 6 if the county income tax council makes a determination to impose rates
 7 under this subsection and section 22 of this chapter.

8 (h) For a county having a population of more than forty-one
 9 thousand (41,000) but less than forty-three thousand (43,000), except
 10 as provided in subsection (p), the county economic development
 11 income tax rate plus the county adjusted gross income tax rate that are
 12 in effect on January 1 of a year may not exceed one and thirty-five
 13 hundredths percent (1.35%) if the county has imposed the county
 14 adjusted gross income tax at a rate of one and one-tenth percent (1.1%)
 15 under IC 6-3.5-1.1-2.5.

16 (i) For a county having a population of more than thirteen thousand
 17 five hundred (13,500) but less than fourteen thousand (14,000), except
 18 as provided in subsection (p), the county economic development
 19 income tax rate plus the county adjusted gross income tax rate that are
 20 in effect on January 1 of a year may not exceed one and fifty-five
 21 hundredths percent (1.55%).

22 (j) For a county having a population of more than seventy-one
 23 thousand (71,000) but less than seventy-one thousand four hundred
 24 (71,400), except as provided in subsection (p), the county economic
 25 development income tax rate plus the county adjusted gross income tax
 26 rate that are in effect on January 1 of a year may not exceed one and
 27 five-tenths percent (1.5%).

28 (k) This subsection applies to a county having a population of more
 29 than twenty-seven thousand four hundred (27,400) but less than
 30 twenty-seven thousand five hundred (27,500). Except as provided in
 31 subsection (p), in addition to the rates permitted under subsection (b):

32 (1) the county economic development income tax may be imposed
 33 at a rate of twenty-five hundredths percent (0.25%); and

34 (2) the sum of the county economic development income tax rate
 35 and the county adjusted gross income tax rate that are in effect on
 36 January 1 of a year may not exceed one and five-tenths percent
 37 (1.5%);

38 if the county council makes a determination to impose rates under this
 39 subsection and section 22.5 of this chapter.

40 (l) For a county having a population of more than twenty-nine
 41 thousand (29,000) but less than thirty thousand (30,000), except as
 42 provided in subsection (p), the county economic development income

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tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For:

(1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); or

(2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);

except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and:

(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or

(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(p) In addition:

(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and

(2) the:

(A) county economic development income tax; and

(B) county option income tax or county adjusted gross income

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1 tax;
 2 may be imposed at combined rates that exceed by not more than
 3 twenty-five hundredths percent (0.25%) the maximum combined
 4 rates that would otherwise apply under this section.

5 However, the additional rate imposed under this subsection may not
 6 exceed the amount necessary to mitigate the increased ad valorem
 7 property taxes on homesteads (as defined in IC 6-1.1-20.9-1) resulting
 8 from the deduction of the assessed value of inventory in the county
 9 under IC 6-1.1-12-41 or IC 6-1.1-12-42.

10 (q) If the county economic development income tax is imposed as
 11 authorized under subsection (p) at a rate that exceeds the maximum
 12 rate that would otherwise apply under this section, the certified
 13 distribution must be used for the purpose provided in section 25(e) or
 14 26 of this chapter to the extent that the certified distribution results
 15 from the difference between:

- 16 (1) the actual county economic development tax rate; and
 17 (2) the maximum rate that would otherwise apply under this
 18 section.

19 (r) This subsection applies only to a county described in section 27
 20 of this chapter. Except as provided in subsection (p), in addition to the
 21 rates permitted by subsection (b), the:

- 22 (1) county economic development income tax may be imposed at
 23 a rate of twenty-five hundredths percent (0.25%); and
 24 (2) county economic development income tax rate plus the county
 25 option income tax rate that are in effect on January 1 of a year
 26 may equal up to one and twenty-five hundredths percent (1.25%);
 27 if the county council makes a determination to impose rates under this
 28 subsection and section 27 of this chapter.

29 (s) Except as provided in subsection (p), the county economic
 30 development income tax rate plus the county adjusted gross income tax
 31 rate that are in effect on January 1 of a year may not exceed one and
 32 five-tenths percent (1.5%) if the county has imposed the county
 33 adjusted gross income tax under IC 6-3.5-1.1-3.3.

34 SECTION 2. IC 6-3.5-7-23 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) This section
 36 applies ~~only to a county having a population of more than fifty-five~~
 37 ~~thousand (55,000) but less than sixty-five thousand (65,000): all~~
 38 ~~counties.~~

39 (b) As used in this section, "appropriate body" means the entity
 40 that imposes the county economic development income tax under
 41 section 5(a) of this chapter.

42 (b) (c) The ~~county council~~ appropriate body may by ordinance

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determine that, in order to promote the development of libraries in the county and thereby encourage economic development, it is necessary to use economic development income tax revenue to replace library property taxes in the county. However, ~~a county council~~ **the appropriate body** may adopt an ordinance under this subsection only if all territory in the county is included in a library district.

~~(c)~~ **(d)** If the ~~county council~~ **appropriate body** makes a determination under subsection ~~(b)~~, **(c)**, the ~~county council~~ **appropriate body** may **adopt an ordinance to** designate the county economic development income tax revenue generated by the tax rate adopted under section 5 of this chapter, or revenue generated by a portion of the tax rate, as revenue that will be used to replace public library property taxes imposed by public libraries in the county. The ~~county council~~ **appropriate body** may not designate for library property tax replacement purposes any county economic development income tax revenue that is generated by a tax rate of more than fifteen-hundredths percent (0.15%).

(e) The appropriate body may not adopt an ordinance under this section designating county economic development income tax revenue to replace public library property taxes if the designation would cause the county or a city or town in the county to receive a certified distribution less than the amount of economic development income tax pledged by the county, city, or town for any purpose permitted by IC 5-1-14 or any other statute.

(f) Subject to the provisions of this section, the appropriate body may adopt either of the following:

(1) An ordinance to increase or decrease the amount of county economic development income tax revenue that will be used to replace public library property taxes imposed in the county.

(2) An ordinance to rescind the use of county economic development income tax revenue to replace public library property taxes imposed in the county.

The appropriate body may not adopt an ordinance under this subsection to decrease the amount of or rescind the county economic development income tax revenue used to replace public library property taxes imposed in the county if that county economic development income tax revenue has been pledged by a public library for any purpose permitted by IC 5-1-14 or any other statute.

~~(d)~~ **(g) If the appropriate body adopts an ordinance under this section, the county treasurer shall establish a library property tax**

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replacement fund to be used only for the purposes described in this section. County economic development income tax revenues derived from the portion of the tax rate designated for property tax replacement credits under subsection ~~(c)~~ (d) shall be deposited in the library property tax replacement fund before certified distributions are made under section 12 of this chapter. Any interest earned on money in the library property tax replacement fund shall be credited to the library property tax replacement fund.

~~(c)~~ (h) The amount of county economic development income tax revenue dedicated to providing library property tax replacement credits shall, in the manner prescribed in this section, be allocated to public libraries operating in the county and shall be used by those public libraries as property tax replacement credits. The amount of property tax replacement credits that each public library in the county is entitled to receive during a calendar year under this section equals the lesser of:

(1) the product of:

(A) the amount of revenue deposited by the county auditor in the library property tax replacement fund; multiplied by

(B) a fraction described as follows:

(i) The numerator of the fraction equals the sum of the total property taxes that would have been collected by the public library during the previous calendar year from taxpayers located within the library district if the property tax replacement under this section had not been in effect.

(ii) The denominator of the fraction equals the sum of the total property taxes that would have been collected during the previous year from taxpayers located within the county by all public libraries that are eligible to receive property tax replacement credits under this section if the property tax replacement under this section had not been in effect; or

(2) the total property taxes that would otherwise be collected by the public library for the calendar year if the property tax replacement credit under this section were not in effect.

The department of local government finance shall make any adjustments necessary to account for the expansion of a library district. However, a public library is eligible to receive property tax replacement credits under this section only if it has entered into reciprocal borrowing agreements with all other public libraries in the county. If the total amount of county economic development income tax revenue deposited by the county auditor in the library property tax replacement fund for a calendar year exceeds the total property tax liability that would otherwise be imposed for public libraries in the

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county for the year, the excess shall remain in the library property tax replacement fund and shall be used for library property tax replacement purposes in the following calendar year.

~~(f)~~ **(i)** Notwithstanding subsection ~~(e)~~, **(h)**, if a public library did not impose a property tax levy during the previous calendar year, that public library is entitled to receive a part of the property tax replacement credits to be distributed for the calendar year. The amount of property tax replacement credits the public library is entitled to receive during the calendar year equals the product of:

(1) the amount of revenue deposited in the library property tax replacement fund; multiplied by

(2) a fraction. The numerator of the fraction equals the budget of the public library for that calendar year. The denominator of the fraction equals the aggregate budgets of public libraries in the county for that calendar year.

If for a calendar year a public library is allocated a part of the property tax replacement credits under this subsection, then the amount of property tax credits distributed to other public libraries in the county for the calendar year shall be reduced by the amount to be distributed as property tax replacement credits under this subsection. The department of local government finance shall make any adjustments required by this subsection and provide the adjustments to the county auditor.

~~(g)~~ **(j)** The department of local government finance shall inform the county auditor of the amount of property tax replacement credits that each public library in the county is entitled to receive under this section. The county auditor shall certify to each public library the amount of property tax replacement credits that the public library is entitled to receive during that calendar year. The county auditor shall also certify these amounts to the county treasurer.

~~(h)~~ **(k)** A public library receiving property tax replacement credits under this section shall allocate the credits among each fund for which a distinct property tax levy is imposed. The amount that must be allocated to each fund equals:

(1) the amount of property tax replacement credits provided to the public library under this section; multiplied by

(2) the amount determined in STEP THREE of the following formula:

STEP ONE: Determine the property taxes that would have been collected for each fund by the public library during the previous calendar year if the property tax replacement under this section had not been in effect.

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STEP TWO: Determine the sum of the total property taxes that would have been collected for all funds by the public library during the previous calendar year if the property tax replacement under this section had not been in effect.

STEP THREE: Divide the STEP ONE amount by the STEP TWO amount.

However, if a public library did not impose a property tax levy during the previous calendar year or did not impose a property tax levy for a particular fund during the previous calendar year, but the public library is imposing a property tax levy in the current calendar year or is imposing a property tax levy for the particular fund in the current calendar year, the department of local government finance shall adjust the amount of property tax replacement credits allocated among the various funds of the public library and shall provide the adjustment to the county auditor. If a public library receiving property tax replacement credits under this section does not impose a property tax levy for a particular fund that is first due and payable in a calendar year in which the property tax replacement credits are being distributed, the public library is not required to allocate to that fund a part of the property tax replacement credits to be distributed to the public library. Notwithstanding IC 6-1.1-20-1.1(1), a public library that receives property tax replacement credits under this section is subject to the procedures for the issuance of bonds set forth in IC 6-1.1-20.

(i) For each public library that receives property tax credits under this section, the department of local government finance shall certify to the county auditor the property tax rate applicable to each fund after the property tax replacement credits are allocated.

(m) A public library shall treat property tax replacement credits received during a particular calendar year under this section as a part of the public library's property tax levy for each fund for that same calendar year for purposes of fixing the public library's budget and for purposes of the property tax levy limits imposed by IC 6-1.1-18.5.

(n) The property tax replacement credits that are received under this section do not reduce the total county tax levy that is used to compute the state property tax replacement credit under IC 6-1.1-21. For the purpose of computing and distributing certified distributions under IC 6-3.5-1.1 and tax revenue under IC 6-5.5 or IC 6-6-5, the property tax replacement credits that are received under this section shall be treated as though they were property taxes that were due and payable during that same calendar year.

SECTION 3. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 6-3.5-7-5, as amended by this act, the

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1 appropriate body (as defined in IC 6-3.5-7-23(b), as added by this
2 act) of a county may after January 1 but before June 15 of a year
3 adopt an ordinance designating county economic development
4 income tax revenue that will be used under IC 6-3.5-7-23, as
5 amended by this act, to replace public library property taxes
6 imposed by public libraries in the county.

7 (b) This SECTION expires January 1, 2006.

8 SECTION 4. An emergency is declared for this act.

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